

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP
1900 ST. JAMES PLACE SUITE 500
HOUSTON, TX 77056
(713) 621-8673

BDFTE# 5379839

Attorney for WELLS FARGO BANK, N.A.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE: § CASE NO. 15-33369-H5-13
§
MATTHEW MACKADOH, §
Debtor § CHAPTER 13

OBJECTION TO CONFIRMATION OF DEBTOR'S CHAPTER 13 PLAN

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW WELLS FARGO BANK, N.A. (hereinafter "Creditor"), a secured creditor in this bankruptcy case, and files its Objection to Confirmation of the Debtor's Chapter 13 Plan. In support thereof, Creditor would allege as follows:

I.

On or about September 27, 2013, Matthew Mack Adoh executed a Note in the original principal amount of THREE HUNDRED FORTY-TWO THOUSAND NINE HUNDRED FIFTY AND 00/100, (\$342,950.00). The Note is secured by a first lien Deed of Trust on property described to wit:

DESCRIPTION OF A TRACT OF LAND CONTAINING 0.0640 ARES (2,790 SQUARE FEET) SITUATED IN THE JOHN D. TAYLOR SURVEY, ABSTRACT 72 HARRIS COUNTY, TEXAS, BEING PART OF TRACT 114 AND 115, IN BLOCK 13, OF WOODLAKE TOWNHOUSES, SECTION 1, AN UNRECORDED SUBDIVISION OF 10.9257 ACRE TRACT IN BLOCK 1, UNRESTRICTED RESERVE "A" OF WOODLAKE, SECTION FIVE, AN ADDITION IN HARRIS COUNTY TEAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 177, PAGE 115 OF THE MAP RECORDS OF HARRIS COUNTY, TEXAS, AND BEING ALL OF A TRACT OF LAND CONVEYED UNTO JAMES W. DENNY III, AND ROBERT L. DENNY BY DEED RECORDED IN COUNTY CLERK'S FILE NO. S579617 OF THE OFFICIAL PUBLIC RECORDS OF HARRIS COUNTY, TEXAS.

SAID 0.0650-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE 10.9257 ACRE TRACT OF LAND CONVEYED UNTO MARVIN HENRY UILDERS, INC. BY DEED RECORDED IN VOLUME 8577, PAGE 38 OF THE DEED RECORDS OF HARRIS COUNTY, TEXAS, BEING IN WEST RIGHT-OF-WAY LINE OF GESSNER ROAD (100.00 FEET WIDE) AND IN THE EAST LINE OF SAID RESERVE "A",

THENCE NORTH 02° 20' 38" WEST WITH THE WEST RIGHT-OF-WAY LINE OF SAID GESSNER ROAD AND THE EAST LINE OF SAID RESERVE "A", A DISTANCE OF 1,471.00 FEET TO A POINT;

THENCE SOUTH 87° 39' 22" WEST , A DISTANCE OF 176.00 FEET TO A BUILDING CORNER FOR THE SOUTHEAST CORNER AND POINT OF BEGINNING OF SAID TRACT HEREIN DESCRIBED, more commonly known as 9723 Briar Forrest Dr., Houston, Texas 77042 (the "Property").

II.

On the date Debtor filed the petition for an Order of Relief, the Note was in default.

Creditor has not yet filed its Proof of Claim. Creditor estimates the claim to be in the amount of \$340,071.43, with arrears in the amount of \$8,971.22. The claim is secured by the Debtors homestead and primary residence. The monthly mortgage payment is \$2,909.42.

III.

Debtor's Chapter 13 Plan lists Creditor's claim as current to be paid pursuant to the terms of the contract. Creditor objects to the proposed treatment because the Plan:

- Fails to satisfy Creditor's Claim pursuant to the terms of the Note and Deed of Trust.
- Attempts to modify the rights of Creditor in violation of 11 U.S.C. §1322 (b)(2).

Creditor's claim is secured only by a security interest in real property that is the Debtor's principal residence and 11 U.S.C. §1322 (b)(2) prohibits the modification of Creditor's rights.

- Does not provide for full payment of the Creditor's allowed secured claim.
- Fails to timely cure the default reflected in the Proof of Claim as required in 11 U.S.C. §1322 (b)(5).

IV.

The plan is not feasible. Based on the Debtor's Chapter 13 Plan Summary, Schedules, and other Pleadings on file with this Court, the Debtor will not be able to make all payments under the Plan and to comply with the Plan. Therefore, confirmation should be denied as not meeting the requirements of 11 U.S.C. §1325(a).

WHEREFORE, Creditor prays that this Court deny confirmation of the Debtor's Chapter 13 Plan.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

BY: /s/ MITCHELL BUCHMAN

MITCHELL BUCHMAN
TX NO. 03290750
1900 ST. JAMES PLACE SUITE 500
HOUSTON, TX 77056
Telephone: (713) 693-2014
Facsimile: (713) 693-2011
E-mail: SDECF@BDFGROUP.COM
ATTORNEY FOR CREDITOR

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2015, a true and correct copy of the Objection to Confirmation of Debtor(s) Chapter 13 Plan was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties listed on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP.

BY: /s/ MITCHELL BUCHMAN
MITCHELL BUCHMAN
TX NO. 03290750
1900 ST. JAMES PLACE SUITE 500
HOUSTON, TX 77056
Telephone: (713) 621-8673
Facsimile: (713) 621-8583
E-mail: SDECF@BDFGROUP.COM
ATTORNEY FOR CREDITOR

BY ELECTRONIC NOTICE OR REGULAR FIRST CLASS MAIL:

DEBTOR:

**MATTHEW MACKADOH
9723 BRIAR FORREST DRIVE
HOUSTON, TEXAS 77042**

DEBTOR'S ATTORNEY:

**EMIL R. SARGENT
723 MAIN STREET
SUITE 316
HOUSTON, TEXAS 77002**

TRUSTEE:

**WILLIAM HEITKAMP
OFFICE OF CHAPTER 13 TRUSTEE
9821 KARY FREEWAY, SUITE 590
HOUSTON, TEXAS 77024**

**U.S. TRUSTEE
OFFICE OF THE U.S. TRUSTEE
515 RUSK
SUITE 3516
HOUSTON, TEXAS 77002**